

to the number of the Departmental permit issued for such article.

[45 FR 31585, May 13, 1980; 45 FR 35305, May 27, 1980, as amended at 56 FR 19790, Apr. 30, 1991; 57 FR 334, Jan. 6, 1992; 57 FR 43145, 43147, 43148, Sept. 18, 1992; 59 FR 9918, Mar. 2 1994; 59 FR 44610, Aug. 30, 1994; 60 FR 8924, Feb. 16, 1995; 62 FR 50238, Sept. 25, 1997; 63 FR 13485, Mar. 20, 1998; 67 FR 53730, Aug. 19, 2002; 68 FR 28118, May 23, 2003; 68 FR 50043, Aug. 20, 2003]

**§ 319.37-3 Permits.**

(a) The restricted articles (other than articles for food, analytical, medicinal, or manufacturing purposes) in any of the following categories may be imported or offered for importation into the United States only after issuance of a written permit by the Plant Protection and Quarantine Programs:

(1) Articles subject to treatment and other requirements of § 319.37-6;

(2) Articles subject to the postentry quarantine conditions of § 319.37-7;

(3) Bulbs of *Allium sativum* spp. (garlic), *Crocasmia* spp. (montebretia), *Glad-iolus* spp. (gladiolus), and *Watsonia* spp. (bugle lily) from New Zealand;

(4) Articles of *Cocos nucifera* (coco-nut); and articles (except seeds) of *Dianthus* spp. (carnation, sweet-william) from any country or locality except Canada;

(5) Lots of 13 or more articles (other than seeds, bulbs, or sterile cultures of orchid plants) from any country or locality except Canada;

(6) Seeds of trees or shrubs from any country or locality except Canada;

(7) Articles (except seeds) of *Malus* spp. (apple, crabapple), *Pyrus* spp. (pear), *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune), *Cydonia* spp. (quince), *Chaenomeles* spp. (flowering quince), and *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry), from Canada;

(8) Articles (except seeds) of *Castanea* spp. (chestnut) or *Castanopsis* spp. (chinquapin) destined to California or Oregon;

(9) Articles (except seeds) of *Pinus* spp. (pine), (5-leaved) destined to Wisconsin;

(10) Articles of *Ribes* spp. (currant, gooseberry), (including seeds) destined to Massachusetts, New York, West Virginia, or Wisconsin;

(11) Articles (except seeds) of *Planera* spp. (water elm, planer) or *Zelkova* spp. from Europe, Canada, St. Pierre Island, or Miquelon Island and destined to California, Nevada, or Oregon;

(12) Seeds of *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) from Canada and destined to Colorado, Michigan, New York, Washington, or West Virginia;

(13) Articles (except seeds) of *Vitis* spp. (grape) from Canada and destined to California, New York, Ohio, Oregon, and Washington;

(14) Articles (except seeds) of *Corylus* spp. (filbert, hazel, hazelnut, cobnut) from provinces east of Manitoba in Canada and destined to Oregon or Washington;

(15) Articles (except seeds) of *Pinus* spp. (pine) from Canada;

(16) Articles (except seeds) of *Ulmus* spp. (elm) from Canada and destined to California, Nevada, or Oregon;

(17) *Solanum tuberosum* true seed from New Zealand and the X Region of Chile (that area of Chile between 39° and 44° South latitude—see § 319.37-5(o)); and

(18) Small lots of seed imported in accordance with § 319.37-4(d) of this subpart.

(b) An application for a written permit should be submitted to the Plant Protection and Quarantine Programs (Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236) at least 30 days prior to arrival of the article at the port of entry. The completed application shall include the following information:<sup>4</sup>

(1) Name, address, and telephone number of the importer;

(2) Approximate quantity and kinds (botanical designations) of articles intended to be imported;

(3) Country(ies) or locality(ies) where grown;

<sup>4</sup>Application forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236, local offices which are listed in telephone directories.

(4) Intended United States port of entry;

(5) Means of transportation, e.g., mail, airmail, express, air express, freight, airfreight, or baggage; and

(6) Expected date of arrival.

(c) A permit indicating the applicable conditions for importation under this subpart will be issued by Plant Protection and Quarantine Programs if, after review of the application, the articles are deemed eligible to be imported into the United States under the conditions specified in the permit. However, even if such a permit is issued, the regulated article may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no remedial measures pursuant to the Plant Protection Act are necessary with respect to the regulated article.<sup>5</sup>

(d) Any permit which has been issued may be withdrawn by an inspector or the Deputy Administrator if he/she determines that the holder thereof has not complied with any condition for the use of the document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

(e) Any restricted article not designated in paragraph (a) of this section may be imported or offered for importation into the United States only after issuance of an oral permit for importation issued by an inspector at the port of entry.

(f) An oral permit for importation of an article shall be issued at a port of entry by an inspector only if all applicable requirements of this subpart are met, such article is eligible to be imported under an oral permit, and an inspector at the port of entry determines that no measures pursuant to section 414 of the Plant Protection Act (7 U.S.C. 7714) are necessary with respect to such article.<sup>5</sup>

(Approved by the Office of Management and Budget under control number 0579-0049)

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983; 57 FR 43148, Sept. 18, 1992; 59 FR 67610, Dec. 30, 1994; 60 FR 8924, Feb. 16, 1995; 66 FR 21055, Apr. 27, 2001; 69 FR 61586, Oct. 20, 2004; 71 FR 19101, Apr. 13, 2006]

#### **§319.37-4 Inspection, treatment, and phytosanitary certificates of inspection.**

(a) *Phytosanitary certificates of inspection.* Except for small lots of seed imported in accordance with paragraph (d) of this section, any restricted article offered for importation into the United States must be accompanied by a phytosanitary certificate of inspection or, in the case of greenhouse-grown plants from Canada imported in accordance with paragraph (c) of this section, a certificate of inspection in the form of a label in accordance with paragraph (c)(1)(iv) of this section attached to each carton of the articles and to an airway bill, bill of lading, or delivery ticket accompanying the articles.

(b) *Inspection and treatment.* Any restricted article may be sampled and inspected by an inspector at the port of first arrival and/or under preclearance inspection arrangements in the country in which the article was grown, and must undergo any treatment contained in part 305 of this chapter that is ordered by the inspector. Any restricted article found upon inspection to contain or be contaminated with plant pests, that cannot be eliminated by treatment, shall be denied entry at the first United States port of arrival.

(c) *Greenhouse-grown plants from Canada.* A greenhouse-grown restricted plant may be imported from Canada if the Plant Health and Production Division of the Canadian Food Inspection

<sup>5</sup> An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).